

**STATE OF LOUISIANA
DIVISION OF ADMINISTRATIVE LAW
ETHICS ADJUDICATORY BOARD**

BOARD OF ETHICS

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* **DOCKET NO. 2019-15286-ETHICS-B**

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IN THE MATTER OF

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KEISHA D. FLEMING

* **AGENCY TRACKING NO. 5119-003**

DECISION AND ORDER

Keisha D. Fleming knowingly failed to file two campaign finance disclosure reports as required by law. The Board of Ethics, acting in its capacity as the Supervisory Committee on Campaign Finance Disclosure, may impose upon Keisha D. Fleming additional civil penalties as allowed by La. R.S. 18:1505.4(A)(4)(a) and (b).

APPEARANCES

A hearing was conducted September 17, 2020, in Baton Rouge, Louisiana, before Panel B of the Ethics Adjudicatory Board (EAB).¹ Charles Reeves appeared as counsel on behalf of the Board of Ethics. Although duly noticed, Keisha D. Fleming did not appear for the hearing.²

STATEMENT OF THE CASE

The Board of Ethics (BOE) requested that the EAB conduct an adjudicatory hearing to determine whether, pursuant to La. R.S. 18:1505.4(A)(4)(a), Keisha D. Fleming (Respondent) was more than six days late filing her 10-P campaign finance disclosure report for the November 6, 2018, primary election for Mayor of the town of White Castle. The BOE also requested that the

¹ Panel B of the EAB consists of Administrative Law Judges William H. Cooper III, Gregory McDonald, and Anthony Russo.

² See BOE-14.

EAB conduct an adjudicatory hearing to determine whether, pursuant to La. R.S. 18:1505.4(A)(4)(b), Respondent was more than eleven days late filing her 10-G campaign finance disclosure report for the December 8, 2018, general election for Mayor of the town of White Castle.

At the hearing, BOE offered its exhibits, numbered BOE-1 through BOE-14, that were admitted into evidence. BOE requested the EAB make a determination of whether Respondent was late filing her 10-P campaign finance disclosure report by more than six days, and whether Respondent was late filing her 10-G campaign finance disclosure report by more than eleven days, which would subject her to additional civil penalties under La. R.S. 18:1505.4(A)(4). The record was closed and the matter was submitted for decision.

This adjudication is conducted in accordance with the Campaign Finance Disclosure Act (CFDA), La. R.S. 18:1481, *et seq.*, the Code of Governmental Ethics, La. R.S. 42:1101, *et seq.*, and the Administrative Procedure Act, La. R.S. 49:950, *et seq.*

FINDINGS OF FACT

Respondent was an unsuccessful candidate for the office of Mayor of the town of White Castle, in a primary election held November 6, 2018. The office of Mayor of the town of White Castle is an “any other” level office.³ Respondent was defeated in the primary election.⁴ A runoff of the top two candidates was held in the general election on December 8, 2018.⁵ Respondent was required to file a campaign finance disclosure report thirty days prior to the primary election (also known as a 30-P), due on October 9, 2018. Respondent was required to file a campaign finance disclosure report ten days prior to the primary election (also known as a 10-P), due on October 29,

³ La. R.S. 18:1483(7) defines a “district office” and La. R.S. 18:1483(11) defines a “major office.” La. R.S. 18:1484(2) defines a candidate for “any other” public office as a candidate for a public office, other than a candidate for a district office or a major office, who makes expenditures in excess of two thousand five hundred dollars or receives a contribution in excess of two hundred dollars in the aggregate during the aggregating period.

⁴ BOE-3, p. 2 of 4.

⁵ BOE-4.

2018, and a campaign finance disclosure report ten days prior to the general election (also known as the 10-G), due on November 28, 2018.

The BOE is the Supervisory Committee under the CFDA.⁶ Upon qualifying for the election, Respondent was provided with a Schedule of Reporting and Filing Dates for Candidates (“Schedule”).⁷ The Schedule informed Respondent that the 30-P report was due October 9, 2018, the 10-P report was due October 29, 2018, and the 10-G report was due November 28, 2018.⁸

Respondent timely filed the required 30-P report.⁹ Respondent reported contributions in the aggregate amount of \$1,321.00 for the period.¹⁰

Respondent did not file the required 10-P report by the due date, October 29, 2018. The BOE issued a Late Fee Assessment Order and assessed a fine of \$1,000.00 for this violation.¹¹ Respondent was notified in the letter accompanying the order that she could be subject to an additional civil penalty of up to \$10,000.00, pursuant to La. R.S. 18:1505.4(A)(4), if she failed to file the report. The 10-P report had not been filed as of August 17, 2020.¹²

Respondent was required to file a campaign finance disclosure report ten days prior to the general election (also known as a 10-G), due on November 28, 2018, in connection with the election.

Respondent did not file the required 10-G report by the due date, November 28, 2018. The BOE issued a Late Fee Assessment Order and assessed a fine of \$1,000.00 for this violation.¹³ Respondent was notified in the letter accompanying the order that she could be subject to an

⁶ La. R.S. 18:1483(19).

⁷ See BOE-2.

⁸ *Id.*

⁹ BOE-5.

¹⁰ BOE-5, p. 2 of 3.

¹¹ BOE-7.

¹² BOE-11.

¹³ BOE-9, BOE-10.

additional civil penalty of up to \$10,000.00, pursuant to La. R.S. 18:1505.4(A)(4), if she failed to file the report. The 10-G report had not been filed as of August 17, 2020.¹⁴

Respondent failed to appear for the hearing or respond to the late fee assessments, despite notice of the hearing and notice of the late fee assessment orders being sent to her last known address.¹⁵

CONCLUSIONS OF LAW

La. R.S. 18:1505.4(A)(4)(a) and (b) provide that if, after conducting an adjudicatory hearing, the EAB determines that a candidate knowingly failed to file the required campaign finance disclosure report, or filed it more than six days [La. R.S. 18:1505.4(A)(4)(a)] or eleven days [La. R.S. 18:1505.4(A)(4)(b)] late, then the BOE, functioning as the Supervisory Committee, may impose upon the candidate additional civil penalties.

The office of Mayor of the town of White Castle is an “any other” level office.¹⁶ The BOE proved Respondent failed to timely file two campaign finance disclosure reports as a candidate for that office in the November 2018 election. Every candidate for “any other” public office (or her campaign treasurer) is required to file reports of contributions and expenditures on specific days before and after an election, when the candidate has an aggregate contribution in excess of \$200.00 for the period.¹⁷ Any candidate for “any other” office, who knowingly fails to timely file a required report may be assessed a civil penalty in the amount of \$40 per day, not to exceed \$1,000.00.¹⁸ The BOE assessed the maximum amount of \$1,000.00, as the required reports were not filed by day twenty-five of the reports being late.¹⁹ “Knowingly and willfully,” means conduct which

¹⁴ BOE-11.

¹⁵ BOE-6, p. 15; BOE-7; BOE-8; BOE-9; BOE-10; BOE-14.

¹⁶ La. R.S. 18:1483(7), (11), and (16); La. R.S. 18:1484(2).

¹⁷ La. R.S. 18:1484(2)(b).

¹⁸ La. R.S. 18:1505.4(A)(2)(a)(iii).

¹⁹ \$40.00 multiplied by 25 days equals \$1,000.00, the statutory maximum in La. R.S. 18:1505.4(A)(2)(a)(iii).

could have been avoided through the exercise of due diligence.²⁰ The BOE assessed late filing fees against Respondent in accordance with La. R.S. 42:1157 and La. R.S. 18:1505.4 in the amount of \$1,000.00 for each of the two unfiled reports. These amounts and orders of assessment have not been appealed by Respondent, under La. R.S. 18:1511.4.1(C)(1) and (2). These amounts are therefore final under La. R.S. 18:1511.4.1(C)(1) and not before the EAB for consideration.²¹

By knowingly failing to file the required reports, Respondent violated the CFDA, and may be assessed a civil penalty up to \$10,000.00 by the BOE for each late report.²²

Respondent failed to file her 10-P campaign finance disclosure report by October 29, 2018; and she failed to file her 10-G campaign finance disclosure report by November 28, 2018. As of August 17, 2020, she had not filed either of the two reports. She is more than six days late in filing her 10-P campaign finance disclosure report. She is more than eleven days late in filing her 10-G campaign finance disclosure report. The BOE proved Respondent, a candidate for “any other” office, has failed to file a 10-P report more than six days after the report’s due date. The BOE proved Respondent, a candidate for “any other” office, has failed to file a 10-G report more than eleven days after the report’s due date. The BOE, in its capacity as the Supervisory Committee for Campaign Finance Disclosure, is authorized to impose additional civil penalties under authority of La. R.S. 18:1505.4(A)(4)(a) and (b), not to exceed ten thousand dollars (\$10,000.00) for each of the two late reports.

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²⁰ La. R.S. 18:1505.5.

²¹ See La. R.S. 42:1153, which exempts the EAB from imposing penalties for violations of the CFDA.

²² La. R.S. 18:1505.4(A)(4).

ORDER

IT IS ORDERED that Keisha D. Fleming's 2018 10-P campaign finance disclosure report is more than six days late, and the Board of Ethics, in its capacity as the Supervisory Committee for Campaign Finance Disclosure, may impose upon Keisha D. Fleming additional civil penalties as allowed by La. R.S. 18:1505.4(A)(4)(a).

IT IS ORDERED that Keisha D. Fleming's 2018 10-G campaign finance disclosure report is more than eleven days late, and the Board of Ethics, in its capacity as the Supervisory Committee for Campaign Finance Disclosure, may impose upon Keisha D. Fleming additional civil penalties as allowed by La. R.S. 18:1505.4(A)(4)(b).

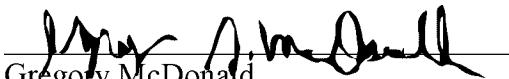
Rendered and signed October 31, 2020, Baton Rouge, Louisiana.



William. H. Cooper III
Presiding Administrative Law Judge



Anthony Russo
Administrative Law Judge



Gregory McDonald
Administrative Law Judge

NOTICE OF TRANSMISSION OF DECISION OR ORDER

I certify that on Monday, November 02, 2020, I have sent a copy of
this decision/order to all parties of this matter.

Clerk of Court
Division of Administrative Law

REVIEW RIGHTS

This decision exhausts your administrative remedies. If you are dissatisfied with this ruling, you may have the right to seek a rehearing or reconsideration of this decision or order, subject to the grounds for and time limitations provided in Louisiana Revised Statute 49:959 and Louisiana Code of Civil Procedure article 5059. To determine your review rights, you should act promptly and seek legal advice.

To request a rehearing or reconsideration, please send it to one of the addresses indicated below:

EMAIL documents to:
EABprocessing@adminlaw.state.la.us

FAX documents to:
EAB Section Deputy Clerk
(225) 219-9820

MAIL documents to:
DAL – EAB Section
ATTN: EAB Section Deputy Clerk
P. O. Box 44033
Baton Rouge, LA 70804-4033

If you do not request a rehearing of your decision or your rehearing request is denied, you have the right to seek judicial review in accordance with La. R.S. 49:964, La. R.S. 42:1142(A)(1), and La. C.C.P. art 5059. To determine your review rights, you should act promptly and seek legal advice.